

THE STATE OF NEW HAMPSHIRE

83-86-I

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GREGORY H. SMITH

DEPUTY ATTORNEY GENERAL
DEBORAH J. COOPER



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T. DAVID FLOURDE

THE ATTORNEY GENERAL
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

July 8, 1983

ASSISTANT ATTORNEYS GENERAL
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Mr. Edgar J. Helms, Jr., Commissioner
Department of Health and Welfare
Hazen Drive
Concord, New Hampshire 03301

Re: Legislative Acceptance and Appropriation of
Federal Block Grants

Dear Commissioner Helms:

During our telephone conversation of July 5, 1983, you requested the advice of the Office of the Attorney General relative to the the General Court's general appropriation of funds to the Department of Health and Welfare in Laws 1983, Ch. 469, in view of Laws 1981, Ch. 568:39. The afore-mentioned 1981 session law generally requires that federal block grants be accepted and appropriated by the legislature to a particular agency in advance of the agency's expenditure of block grants. This statute was enacted prior to an anticipated change in federal funding procedure which previously funded programs on a categorical, as opposed to block, basis.

You have advised me that the Department of Health and Welfare, in submitting its budget for the biennium beginning July 1, 1983, provided the legislature with substantial detail concerning anticipated source of revenues for the Department of Health and Welfare's programs, including revenues anticipated from federal block grants. This specific information was available to the legislature at the time it enacted the Department of Health and Welfare budget as a part of Laws 1983, Ch. 469. In this context, two issues have arisen. The first is whether the appropriation of federal block grant funds to the Department of Health and Welfare in the 1983 budget is sufficient to satisfy



the terms of Laws 1981, Ch. 568:39. The second issue, which arises only if the legislature did not specifically appropriate the anticipated block grant funds to the Department, is whether the requirements of Laws 1981, Ch. 568:39 survive the biennium which ended June 30, 1983. Since we have concluded that the appropriation to the Department of Health and Welfare in Laws 1983, Ch. 469 provides sufficient specificity to satisfy the requirements of Laws 1981, Ch. 568:39, it is not necessary for us to respond to the second issue.

During the 1981 session of the General Court, the legislature was faced with significant changes in the mechanism by which the United States Congress made funds available to the states for various programs. Faced with the uncertainty which was expected to occur after the close of the 1981 session of the General Court, the legislature specifically provided that its review and acceptance of the block grants was to occur prior to the expenditure of any block grant funds by the affected state agencies. This procedure guaranteed the legislature a means to control the acceptance and expenditure of block grant funds in the absence of state administrative experience with the block grant method of funding distribution.

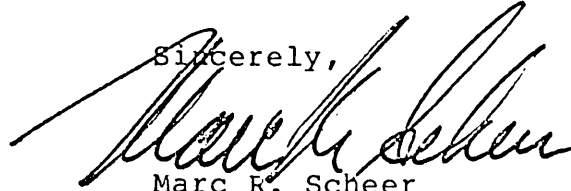
During the 1983 session of the legislature, the Department of Health and Welfare, in anticipation of federal block grant funds for fiscal years 1984 and 1985, provided in its budget the anticipated level of federal block grant funding for the Department's various programs. This amount of appropriation was incorporated in the final version of HB 500, which was enacted as the budget for the coming biennium in Laws 1983, Ch. 469.

Under the circumstances, the legislature is not faced with the uncertainty that existed at the end of the 1981 session, but rather has reviewed and included in the budget the specific amounts expected to be available in the federal block grants. Accordingly, it is our opinion that the legislature intended through adoption of HB 500 and the specific inclusion of the expected block grant amounts to appropriate those block grant funds to the Department of Health and Welfare, and that, if applicable, the requirements of Laws 1981, Ch. 568:39 are satisfied. Since this appropriation is embodied as part of HB 500, this spending authority extends through the end of the coming biennium, which ends on June 30, 1985. Of course, the legislature may by appropriate action impose different spending or time limitations upon the Department of Health and Welfare as it sees fit.

I have on this date advised the members of the Civil Division of this Office that contracts funded through block grants which have already been submitted to this office and

approved on the basis of our technical review criteria may be given final approval and signed by counsel for the various agencies. With this office's final approval of these contracts, they may be referred to the Governor and Council for appropriate review and approval.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marc R. Scheer", written over the word "Sincerely,".

Marc R. Scheer
Assistant Attorney General
Division of Legal Counsel

MRS:ab

cc: Richard A. Chevrefils
Ronald Andrews
Dr. William Wallace
Geraldine Sylvester
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